

REMARKS

In the Official Action mailed 27 October 2004, the Examiner reviewed claims 1-53. The Examiner objected to claim 33, because of mis-numbering; rejected claims 1-20 under 35 U.S.C. §112, second paragraph; rejected claims 1, 5-14 and 20 under 35 U.S.C. §102(e); rejected claims 1, 5-14 and 20 under 35 U.S.C. §103(a); rejected claims 2-4, 15, 16, 18, 19 and 21-53 under 35 U.S.C. §103(a); and rejected claim 17 under 35 U.S.C. §103(a).

Applicant has amended claims 1, 9, 21 and 38, and corrected a numbering mistake in claim 32. Claims 1-53 remain pending.

Applicant thanks the Examiner for granting the telephone interview on 6 January 2005, as summary of which is filed herewith.

The Examiner's objection and rejections are respectfully traversed below.

Objection to Claim 33

Claim 33 is objected to because there are two instances of claim 33. As suggested by the Examiner, the first instance of claim "33" has been changed to -- 32 --.

Accordingly, reconsideration of the objection to claim 33 as amended is respectfully requested.

Rejection of Claims 1-20 under 35 U.S.C. §112, second paragraph

Claims 1-20 are rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicant has amended the claim 1 to address this issue, and made parallel amendments to claim 9, and the other independent claims 21 and 38. Accordingly, reconsideration of the rejection is respectfully requested in view of the amendments.

Rejection of Claims 1, 5-14 and 20 under 35 U.S.C. §102(e)

Claims 1, 5-14 and 20 are rejected under 35 U.S.C. §102(e) as being anticipated by Pallakoff (US 6,269,343). Reconsideration is respectfully requested.

Pallakoff describes a "demand aggregation" process by which a seller registers an offer with an intermediary, called a service controller, to sell the goods or services with different price levels for different demand thresholds. The intermediary presents the offer to potential buyers, and aggregates buyers to meet the demand thresholds of the seller. (See, Pallakoff, Figs. 4 and

5). In Pallokoff, there is no interaction between the buyers of the goods or services. Rather, the Pallokoff system is set up to facilitate individual sales to individual buyers who come together through an intermediary only for the purposes of demand aggregation by which they receive lower prices. In Pallokoff, the buyers are “potentially unrelated and potentially totally independent” and brought together only for the purposes of “quantity pricing.” See Pallokoff, column 1, lines 45-49.

Unlike the present invention, Pallokoff teaches a system for aggregating buyers who are independent and unrelated to one another, for the purposes of obtaining volume discounts on particular goods and services. Thus, Pallokoff is a classic business method implemented using an Internet interface. The present invention facilitates sharing a particular service provided on a service provider infrastructure between two or more parties, in a manner requiring the two or more parties to come together and agree on the attributes of the shared service, and then for a service provider to provision that service. Thus the present invention is a technological solution for defining and sharing a service provided on a service provider infrastructure.

Independent claim 1 in the present application involves first and second parties who seek to share a service provided by a service provider. The system of the present claims facilitates the sharing of the service by two parties, by providing an interface by which attributes as a shared service are negotiated and by presenting technology to provision the shared service according to the negotiated attributes. In the claims presented here, the process by which the service provider establishes independent accounts with the two parties, which might be done using a demand aggregation process like Pallokoff, is separate from the process of claim 1. Claim 1 sets up technology by which two parties negotiate attributes of a shared service, and arrange for provisioning of the shared service over the service provider infrastructure.

The Examiner reads the first step in claim 1, by which the first party identifies attributes of a service to be shared, on Fig. 2, character 23; Fig. 3, characters 33 and 34; and column 6, lines 49-54 of Pallokoff. Fig. 2 of Pallokoff shows the interface by which the seller registers a product with certain attributes with the intermediary. There is no provision for sharing a product between the seller and the intermediary or any other party.

Fig. 3 and column 6, lines 49-54 of Pallokoff illustrate the basic procedure contemplated, in which the seller's registered offer is presented on a web site to buyers, who are given the

opportunity to join a “buying team.” However, there is no relationship between the buyers other than the demand aggregation.

The Examiner takes the position that Pallokoff teaches identifying attributes “over a service provider infrastructure.” (Office action, page 3, line 4). However, the Examiner misreads the claim. The claim does not require identifying the attributes of the service “over a service provider infrastructure.” Rather, the claims require an interface that identifies the attributes of a service “to be provisioned over the service provider infrastructure.” The Examiner may be taking the position that interface identifying the service to shared, and the infrastructure on which the service is provisioned are met by the system controller provided by the intermediary in Pallokoff. However, this reading is mistaken. The system controller of Pallokoff may present an interface to the buyer. However, there is no description in Pallokoff, suggesting that the system controller present an interface to a buyer (or a seller) by which the buyer defines attributes of a service to be provisioned by the system controller. Thus, there is no service provisioned using the system controller that qualifies as the “particular service to be shared with a second party” as required in the claim. Furthermore, there is no suggestion in Pallokoff that the system controller act as an infrastructure for provisioning any shared service, having attributes defined by an interface as claimed herein.

Claim 1 also requires “executing a process to provision the particular service...” The Examiner reads this provisioning limitation on character 37 of Fig. 3; column 5, lines 38-41; column 8, lines 63-65 and column 11, lines 63-65 in Pallokoff. Character 37 of Fig. 3; column 5, lines 38-41; and column 8, lines 63-65 describe that the purchased goods are delivered to the buyers, or purchased services are performed for the buyers, if the transaction closes. Column 11, lines 63-65 relates to implementation of the system controller, rather than provisioning of purchased services. According to the claims, a particular service is provisioned on a service provider infrastructure. There is no mention of a service provider infrastructure anywhere in Pallokoff. Furthermore, the system controller of Pallokoff is not used for provisioning services that are subject of the negotiation between the first and second parties contemplated in this claim.

In an embodiment described in the specification of the present application, the service provider is a communication network. The first and second parties are individuals that have connections to that communication network and relationships with the service provider (See, claim 2). The transaction that is executed using the claimed process is one that involves the first

and second parties, and provisioning of communication between them on the communication network. There is no description in Pallokoff that corresponds with the service provider infrastructure, such as the communication network described in this example.

Claims 5-14 and 20 depend from claim 1, and are patentable for at least the same reasons, and because of the unique combinations recited. For example, claim 5 includes "displaying an image prompting a user to create a logical instance of the particular service..." The Examiner reads this on column 6, lines 63-67 of Pallokoff. The cited segment of Pallokoff describes content that might be presented to the potential buyers in a demand aggregation model. However, it does not mention nor suggest a "logical instance of a particular service."

The Examiner takes the position that the same cited segment of Pallokoff suggests limitations in claim 7 by which another image is presented upon creation of a logical instance "prompting a user to offer the particular service to another party..." Thus, claim 7 claims structures of an interactive interface that are not described in Pallokoff.

With regard to claim 9, the Examiner argues, "Pallokoff meets this limitation because Pallokoff allows a first party to offer participation to a number of parties." (Office Action, page 3, last three lines.) However, as discussed in detail above, the buyers in Pallokoff are independent, and do not share services that are provisioned on an infrastructure, as required in these claims. The Examiner cites the "tell your friends" button in the buyer's interface, described at column 10, lines 52-56 in Pallokoff. Even if the "tell your friends" button is clicked, this merely results in an e-mail being sent which offers participation in the buying group. It does not have anything to do with sharing a service that is provisioned on a service provider infrastructure.

Accordingly, reconsideration of the rejection of claims 1, 5-14 and 20 as amended is respectfully requested.

Rejection of Claims 1, 5-14 and 20 under 35 U.S.C. §103(a)

Claims 1, 5-14 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pallakoff (US 6, 269,343). The Examiner assumes *arguendo* for the purposes of this rejection under 35 U.S.C. §103(a), that Pallokoff "did not teach providing an interface by which the first party identifies more than one service attribute." The Examiner reasons that identifying more than one service attribute would have been obvious in Pallokoff, allowing "Pallokoff to offer a

variety of products in an organized manner." This reasoning is based on the same mistake in reading claim 1 discussed above. In particular, Pallokoff relates to demand aggregation for a single good or service to be delivered to otherwise independent buyers. Offering a variety of products in an organized manner, as suggested by the Examiner, would defeat the demand aggregation purpose of Pallokoff. Furthermore, the offering of a variety of products to independent buyers is not the subject of the present invention.

It is submitted that claims 1, 5-14 and 20 distinguish over Pallokoff for at least the reasons discussed above in connection with the rejection for anticipation.

Accordingly, reconsideration of the rejection of claims 1, 5-14 and 20 as amended is respectfully requested.

Rejection of Claims 2-4, 15, 16, 18, 19 and 21-53 under 35 U.S.C. §103(a)

Claims 2-4, 15, 16, 18, 19 and 21-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pallakoff (US 6,269,343) in view of Daleen et al. (US 6,493,722).

With respect to claims 15-19, the Examiner relies on Daleen et al. to suggest applying the demand aggregation routine of Pallokoff to the sales of communication services and utilities such as gas, electric and water, citing column 4, lines 34-40. However, as discussed in detail above, the "demand aggregation" processes of Pallokoff and Daleen et al. are substantially different than the procedure claimed herein, by which first and second parties agree on attributes of the service, and the service is provisioned using a service provider infrastructure. All the transactions anticipated by Pallokoff and by Daleen et al. involve delivery of a good or service from a seller to a buyer who is a member of a buyer's group, but who is otherwise independent of other buyers. Neither reference anticipates parties that negotiate the characteristics of a shared service, and then arrange for provisioning of that shared service by a service provider infrastructure.

We note that the Examiner does not specifically discuss claims 33-36. However, it is submitted that such claims are patentable for at least the same reasons as discussed with respect to claims 15-19 herein.

In connection with claims 2-4, 21-32 and 37-53, the Examiner relies upon the abstract of Daleen et al. which describes using a database of subscriber information to form a "community to negotiate a group purchase ..." Apparently, the Examiner is taking the position that the step of

"establishing a connection between the service provider infrastructure and the first party..." of claim 2 corresponds with providing subscriber information to such database. However, the Examiner misreads the claim. In particular, the database in Daleen et al. corresponds with the system controller of Pallokoff, but not with the service provider infrastructure of the present claims. Rather, the service providers in Daleen et al. and Pallokoff do not provision a service using that database. Thus, the "service provider infrastructure" of the claims does not read on the Daleen et al. database.

The Examiner argues that the limitations of claims 2 and 3 are "essentially drawn to an automatic connection protocol that offers a service upon verifying that a client computer is configured to receive the service." Of course, this paraphrase of the limitations of claims 2 and 3 is inaccurate. It is submitted that the claim limitations are clear on their face and should not be paraphrased for the purposes of this examination. Furthermore, we understand that one might argue that the establishing of the individual accounts for the first and second parties might be done using a demand aggregation tool of the references, or using an automatic connection service as noted by the Examiner. But claim 2 and claim 3 add procedures to the transaction defined according to claim 1. These claimed steps are unique in the context of independent claim 1, and not suggested by the references.

The Examiner does not specifically discuss claims 21-32 and 37-53. However, it is submitted that such claims are patentable for at least the same reasons as discussed with respect to the other claims discussed herein.

Independent claim 21 is similar to a combination of claims 1-3, and generalized for a plurality of parties, and thus patentable for the same reasons. Claims 22-32 and 37 depend from claim 21, and are patentable for the same reasons, and because of the unique combinations recited.

Independent claim 38 and claims 39-53, which depend from claim 38, are directed to provisioning shared communication services using a procedure as discussed above, and include many unique limitations related to provisioning communication services not found in the references relied upon by the Examiner. Claims 38-53 are patentable for the same reasons as discussed above, and because of the unique combinations recited.

Accordingly, reconsideration of the rejection of claims 2-4, 15, 16, 18, 19 and 21-53 as amended is respectfully requested.

Rejection of Claim 17 under 35 U.S.C. §103(a)

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pallakoff (US 6,269,343) in view of Official Notice.

Claim 17 depends from claim 1, and is patentable for at least the same reasons, and because of the unique combinations recited.

Accordingly, reconsideration of the rejection of claim 17 is respectfully requested.

CONCLUSION


It is respectfully submitted that this application is now in condition for allowance, and such action is requested.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (CMET 1001-2).

Respectfully submitted,

Dated:

18 Jan 05



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